

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 12651 of 2004

Between:

M.Kullayamma, W/o Late M.Venkata Subba Reddy,
R/o Ramireddypally Village, Sanjamala Mandal, Kurnool District

..... PETITIONER

AND

- 1 The Revenue Divisional Officer, Nandyal, Kurnool District
- 2 The Mandal Revenue Officer, Sanjamala Mandal, Kurnool District
- 3 Mr.M.V.Raghunatha Reddy, S/o Late Eswara Reddy,
R/o Ramireddypalli Village, Sanjala Mandal, Kurnool District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Order or direction, preferable to the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing the impugned proceedings No.RCJ 684/2003 dated 12-12-2003 in canceling the pattadar pass book and title deeds of the petitioner without jurisdiction and authority of law, behind the back of the petitioner without giving the opportunity, as illegal, arbitrary, violative of Articles 14,19,21 & 300A of the Constitution of India and consequently set aside the above said impugned proceeding to the 1st respondent with a direction not to interfere in the peaceful possession and enjoyment of the petitioners land.

Counsel for the Petitioner: MR.K.RATHANGA PANI REDDY

Counsel for the Respondents 1 & 2: GP FOR REVENUE

Counsel for the Respondent 3: K.SITARAM

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.12651 OF 2004

ORDER:

The petitioner's husband and the father of the third respondent are brothers and are residents of Ramireddypalli village in Sanjamala Mandal of Kurnool District. It is the case of the petitioner that she inherited the property in Survey Nos.92 admeasuring Acs.4.15 and Survey No.41 admeasuring Acs.1.48 of the said village from her husband, who died in 1997. The property belongs to the Joint family of petitioner's husband and third respondent's father. Allegedly there was a partition of the properties between two brothers on 26.08.1983 and in the said partition the lands in Survey Nos.41 and 92 fell to the share of petitioner's husband. Pursuant to the partition, the petitioner's husband; after his death, the petitioner, it is alleged – are in possession and enjoyment of the property and the name of the petitioner is also mutated in revenue records and pattadar passbooks are also given to the petitioner. The third respondent filed a suit being O.S.No.52 of 2002 on the file of the Court of Junior Civil Judge, Koilakuntla for permanent injunction. The Interlocutory application being I.A.No.263 of 2002 for temporary injunction was dismissed. Thereafter, the petitioner came to know that the first respondent by proceedings dated 12.12.2003 cancelled the pattadar passbooks and title deeds issued in favour of the petitioner. Assailing the same, the present writ petition is filed.

This Court while admitting the writ petition on 21.07.2004 suspended the impugned order of the first respondent dated 12.12.2003. The third respondent moved an application being W.V.M.P.No.2652 of 2004 praying this Court to vacate the interim order. As the petitioner has an effective alternative remedy by way of revision before the Joint Collector against the orders of the first respondent, with the consent of the learned counsel for petitioner and learned counsel for respondents, the writ petition is being disposed of at interlocutory stage.

In the counter affidavit filed by third respondent along with W.V.M.P., the allegation

of the petitioner that she is absolute owner of the land in Survey Nos.92 and 41 of Ramireddypalli is denied. The third respondent asserts that the said property was inherited by his father Eswar Reddy, who succeeded to the property of his adoptive father M.Pedda Nagi Reddy, that all the transactions are evidenced by registered documents and that after demise of his father, third respondent became absolute owner. It is further stated that the suit filed by the third respondent being O.S.No.52 of 2002 was decreed by the Court of Junior Civil Judge, Koilakuntla on 06.08.2004 and that the petitioner has no manner of right. The writ petition is also opposed on the ground that the petitioner has an effective alternative remedy under Section 9 of the Record of Rights in Land and Pattadar Passbooks Act, 1971 (for short, the Act).

Learned counsel for petitioner submits that the petitioner alone is in possession of the property and she was issued pattadar passbooks and title deeds under the provisions of the Act. **Per contra**, learned counsel for third respondent submits that the third respondent alone is in possession of the property and that the petitioner herein obtained necessary entries in pattadar passbooks by misrepresentation before the Mandal Revenue Officer and therefore it was competent for the Revenue Divisional Officer to cancel the entries.

It is not denied before this Court that under Section 9 of the Act, the petitioner has an effective remedy by way of revision.

However, the petitioner apprehends that the third respondent may forcibly dispossess him in the guise of the impugned order.

There is some dispute as to possession of the property. The third respondent has already obtained decree dated 06.08.2004 from the Civil Court. It is *ex parte* decree, under which the petitioner herein, who is sole defendant in the suit in O.S.No.52 of 2002, was restrained from any manner interfering with the possession and enjoyment of the property in Survey No.92 admeasuring Acs.4.15. However, the third respondent did not obtain any decree in respect of the land in Survey No.41 admeasuring Acs.1.48. Be that as it is, an order of *status quo* would safeguard the interests of both the parties. Therefore, while ordering *status quo* to be maintained as on today, the writ petition is disposed of giving liberty to the petitioner to approach jurisdictional Joint Collector under Section 9 of the Act

and file revision within a period of two weeks from the date of receipt of copy of this order. As and when such revision is filed, Joint Collector shall dispose of the same after giving due notice to the third respondent and affording opportunity of being heard to both the parties. The Joint Collector is also directed to dispose of the revision of the petitioner within a period of six weeks from the date of filing of such revision. There shall be no order as to costs.

(V.V.S.RAO,J)

11.10.2004.

pln

To

1. The Revenue Divisional Officer, Nandyal, Kurnool District.
2. The Mandal Revenue Officer, Sanjamala Mandal, Kurnool District.
3. 2 CCs to the G.P. for Revenue, High Court Buildings, Hyderabad (OUT).
4. 2 CD copies.